

APPEAL NO. 040950
FILED JUNE 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 31, 2004, with the record closing on April 8, 2004. The hearing officer decided that: (1) the respondent (claimant) sustained a compensable injury on _____; and (2) the claimant had disability beginning March 5, 2003, and continuing through the date of the hearing. The appellant (carrier) appealed these determinations on sufficiency of the evidence grounds. The carrier also complains that the hearing officer failed to include its written closing argument as an exhibit in this case. The claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

As stated above, the carrier complains that the hearing officer failed to include its written closing argument as an exhibit in this case. We note that the record was held open until no later than April 8, 2004, at 5:00 p.m., for the submission of written closing arguments. The record reveals that the carrier's written closing argument was faxed to the Texas Workers' Compensation Commission on April 9, 2004, at 8:16 a.m., and was stamped as received on that date. The carrier failed to submit its written closing argument prior to the closing of the record in this case. Accordingly, we perceive no error.

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Elaine M. Chaney
Appeals Judge